

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

NIKKI POOSHS,
Plaintiff,
vs.
ALTRIA GROUP, INC., *et al.*
Defendants.) Case No. C 04-01221-PJH-JCS
) **PROPOSED ORDER RE: PAGELINE
DESIGNATIONS AND OBJECTIONS [DR.
COOK]**
)
) Judge: Honorable Phyllis J. Hamilton

The Court has reviewed the parties January 19, 2015 Joint Submission regarding the page and line designations, counter designations and objections to the deposition of Dr. Christopher John Cook taken on July 12, 22, 28 and August 17, 2011. The Courts rulings are as follows:

I. Christopher John Cook (July 21, 2011 Transcript) (Volume 1)

A. Defendants' Objections to Plaintiff's Designations

<i>Plaintiff's Designations (1/6/16)</i>	<i>Defendants' Objections</i>	<i>Court's Ruling</i>
10:12-12:04	No objection	
13:08-13:11	No objection	
13:17-22	No objection	
24:06-25:25	No objection	
26:02-26:08	No objection	
26:11-28:02	No objection	

1	Plaintiff's Designations (1/6/16)	Defendants' Objections	Court's Ruling
2	28:04-07	No objection	
3	29:01-08	No objection	
4	29:16-30:06	No objection	
5	31:01-09	No objection	
6	31:11-31:24	No objection	
7	34:8-11; 34:18-35:3	1/6/16 Late designation – previously not included in Dkt. 397; Post-1987; 34:8-11 and 34:18 previously excluded by the Court (Dkt. 392)	Sustained
10	43:14-44:14	Calls for Legal Conclusion; Beyond the scope of Expertise; Cumulative; Irrelevant; Post-1987	Sustained
13	44:15-46:12	No objection	
14	46:14-19	No objection	
15	51:14-17	No objection	
16	51:19-21	No objection	
17	51:23-52:08	No objection	
18	52:10-52:17	No objection	
19	52:19-24	Lack of Foundation; Speculative; Unfair Prejudice; Post-1987; Implied Preemption	Sustained
22	53:1-4; 53:6-10	Argumentative; Speculative; Unfair Prejudice; Irrelevant; Confusion; Post-1987; Implied Preemption	Sustained
24	53:13-20; 53:22-54:6	Argumentative; Speculative; Unfair Prejudice; Irrelevant; Confusion; Post-1987; Implied Preemption	Sustained

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60:1-60:17

Sustained

65:11-16

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Sustained

Company Documents

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Page 3 is missing

Objection
sustained

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	<i>Plaintiff's Designations (1/6/16)</i>	<i>Defendants' Objections</i>	<i>Court's Ruling</i>
1	2 73:14-19; 74:1-3; 74:5-74:23; 3 75:1-5	4 Irrelevant; Cumulative; 5 Hearsay; Document speaks 6 for itself; Meaning or Intent of 7 Company Documents	8 <i>Sustained</i>
10	9 75:08-23 10 76:01-21 11 76:24-77:25 12 78:02-12 13 78:14-79:02 14 79:05-12 15 79:14-22 16 79:24-80:25 17 81:02-17 18 81:19-82:05 19 82:07-11 20 82:17-83:05 21 85:11-20	22 No objection	23
11	12 85:21-86:25	13 Irrelevant; Lack of 14 Foundation; Improper 15 designation; Non-Testimonial 16 Material; Cumulative; Unfair 17 Prejudice	18 <i>Sustained</i>
14	15 87:1-88:10 16 88:21-89:10	17 No objection	18
16	17 89:11-22	18 No objection	19
17	18 89:24-90:3	19 No objection	20
18	19 90:10-91:11	20 No objection	21
19	20 91:16	21 No Objection	22
20	21 91:21-92:7	22 Irrelevant; Unfair Prejudice; 23 Cumulative; Meaning or 24 Intent of Company 25 Documents; Unsegregated 26 Aggregate Harm; Non- 27 Testimonial Material	28 <i>Sustained</i>
23	24 97:18-98:6	25 No objection	26
24	25 98:7-100:4	26 No objection	27
25	26 100:5-15	27 No objection	28
26	27 100:17-24	28 No objection	

	<i>Plaintiff's Designations (1/6/16)</i>	<i>Defendants' Objections</i>	<i>Court's Ruling</i>
1	101:1-101:19	No objection	
2	101:20-102:10	No objection	
3	102:11-12	No objection	
4	102:13-17	No objection	
5	102:19-24	No objection	
6	103:2-3	No objection	
7	106:10-107:12 107:14-108:11 108:13-108:13 108:15-20 108:22-23	No objection	
8	109:12-14	Irrelevant; Unfair Prejudice; Lack of Foundation; Document speaks for itself; Asked and Answered; Vague; Meaning or Intent of Company Documents	<i>Sustained</i>
9	109:16-20	Irrelevant; Unfair Prejudice; Lack of Foundation; Document speaks for itself; Vague; Meaning or Intent of Company Documents	<i>Sustained</i>
10	110:14-19 111:15-112:10 112:12-13	No objection	
11	112:14-17; 112:19-20	Irrelevant; Lack of Foundation; Document speaks for itself; Cumulative; Unfair Prejudice; Meaning or Intent of Company Documents	<i>Sustained</i>
12	112:21-113:6	No objection	
13	113:7-14; 113:16-19	Irrelevant; Lack of Foundation; Document speaks for itself; Cumulative; Unfair Prejudice; Meaning or Intent of Company Documents	<i>Sustained</i>
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1	Plaintiff's Designations (1/6/16)	Defendants' Objections	Court's Ruling
2	113:21-114:1	Irrelevant; Lack of Foundation; Cumulative; Unfair Prejudice; Meaning or Intent of Company Documents	Sustained
3	114:3-8	Irrelevant; Lack of Foundation; Document speaks for itself; Meaning or Intent of Company Documents	Sustained
4	114:10-13	Irrelevant; Lack of Foundation; Document speaks for itself; Express Preemption (Post-July 1, 1969); Meaning or Intent of Company Documents	Sustained
5	121:19-122:25	No objection	
6	123:1-6	Irrelevant; Unfair Prejudice; Document speaks for itself; Cumulative; Williams/State Farm (Nexus); Meaning or Intent of Company Documents	Sustained
7	135:16-136:14 136:16-137:16 139:1-23 143:20-144:03 144:13-16 144:20-145:16 145:05-16 145:18-146:07 146:10-147:11		
8		No objection	
9	147:12-19; 147:21-23	Irrelevant; Lack of Foundation; Document speaks for itself; Cumulative; Unfair Prejudice; Williams/State Farm (Nexus); Meaning or Intent of Company Documents	Sustained
10	147:24-149:6	No objection	

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6 **B. Defendants' Counter-Designations and Plaintiff's Objections (Volume 1)**

<i>Defendants' Counter-Designations</i>	<i>Plaintiff's Objections</i>	<i>Court's Ruling</i>
50:5-8	No objection	
50:10-14	No objection	
54:11-14	No objection	
54:16-18	No objection	

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II. **Christopher John Cook (July 22, 2011 Transcript) (Volume 2)**

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<i>Plaintiff's Designations</i>	<i>Defendants' Objections</i>	<i>Court's Ruling</i>
282:2-283:17 283:19-20	No objection	

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B. Defendants' Counter-Designations and Plaintiff's Objections (Volume 2)

 NONE

III. **Christopher John Cook (August 9, 2011 Transcript) (Volume 3)**

A. Defendants' Objections to Plaintiff's Designations (Volume 3)

 NONE

B. Defendants' Counter-Designations and Plaintiff's Objections (Volume 3)

<i>Defendants' Counter-Designations</i>	<i>Plaintiff's Objections</i>	<i>Court's Ruling</i>
518:12-519:24	Irrelevant, cumulative, unfairly prejudicial (403)	<i>Overruled</i>
548:21-24	No objection	
549:2-6	No objection	
550:5-551:3	No objection	
551:5-552:9	No objection	
552:21-553:22	Cumulative; Unfair Prejudice (403); hearsay; Irrelevant; Argumentative; Document speaks for itself; Lack of Foundation; Hearsay; Improper opinion; Meaning or Intent of Company Documents	<i>Sustained</i>
554:17-555:11	Cumulative; Unfair Prejudice (403); hearsay; Irrelevant; Argumentative; Document speaks for itself; Lack of Foundation; Hearsay; Improper opinion; Meaning or Intent of Company Documents	<i>Sustained</i>

1 2	<i>Defendants' Counter- Designations</i>	<i>Plaintiff's Objections</i>	<i>Court's Ruling</i>
3 4 5 6 7 8	555:23-556:9	Cumulative; Unfair Prejudice (403); hearsay; Irrelevant; Argumentative; Document speaks for itself; Lack of Foundation; Hearsay; Improper opinion; Meaning or Intent of Company Documents	Sustained
9 10 11 12 13 14	556:11-558:14	Cumulative; Unfair Prejudice (403); hearsay; Irrelevant; Argumentative; Document speaks for itself; Lack of Foundation; Hearsay; Improper opinion; Meaning or Intent of Company Documents	Sustained
15 16 17 18 19 20	558:16	Cumulative; Unfair Prejudice (403); hearsay; Irrelevant; Argumentative; Document speaks for itself; Lack of Foundation; Hearsay; Improper opinion; Meaning or Intent of Company Documents	Sustained
21 22 23 24 25 26	558:18-19	Cumulative; Unfair Prejudice (403); hearsay; Irrelevant; Argumentative; Document speaks for itself; Lack of Foundation; Hearsay; Improper opinion; Meaning or Intent of Company Documents	Sustained

1 2 Defendants' Counter- Designations	3 4 5 6 7 8 Plaintiff's Objections	9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 Court's Ruling
558:21-559:14	Cumulative; Unfair Prejudice (403); hearsay; Irrelevant; Argumentative; Document speaks for itself; Lack of Foundation; Hearsay; Improper opinion; Meaning or Intent of Company Documents	Sustained
559:16-560:20	Cumulative; Unfair Prejudice (403); hearsay; Irrelevant; Argumentative; Document speaks for itself; Lack of Foundation; Hearsay; Improper opinion; Meaning or Intent of Company Documents	Sustained
560:22-561:5	Cumulative; Unfair Prejudice (403); hearsay; Irrelevant; Argumentative; Document speaks for itself; Lack of Foundation; Hearsay; Improper opinion; Meaning or Intent of Company Documents	Sustained
562:23-563:11	No objection	
563:20-564:25	No objection	
565:3-10	No objection	
569:19-570:18	No objection	
570:21-572:22	No objection	

Defendants' Counter-Designations	Plaintiff's Objections	Court's Ruling
572:24	No objection	
573:17-574:11	No objection	
574:15-16	No objection	
574:18-25	Irrelevant, unfairly prejudicial (403)	Overruled
575:4-6	Irrelevant, unfairly prejudicial (403)	Overruled
575:9-10	Irrelevant, unfairly prejudicial (403)	Overruled
575:12-576:7	Cumulative; Unfair Prejudice (403); hearsay; Irrelevant; Argumentative; Document speaks for itself; Lack of Foundation; Hearsay; Improper opinion; Meaning or Intent of Company Documents	Sustained
576:9-24	Cumulative; Unfair Prejudice (403); hearsay; Irrelevant; Argumentative; Document speaks for itself; Lack of Foundation; Hearsay; Improper opinion; Meaning or Intent of Company Documents	Sustained

1 2 Defendants' Counter- Designations	3 4 5 6 7 8 Plaintiff's Objections	9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 Court's Ruling
577:1-578:1	Cumulative; Unfair Prejudice (403); hearsay; Irrelevant; Argumentative; Document speaks for itself; Lack of Foundation; Hearsay; Improper opinion; Meaning or Intent of Company Documents	Sustained
578:3-10	No objection	
578:12-17	No objection	
578:19-579:6	No objection	
579:8-580:11	No objection	
580:13	No objection	
614:23-616:15	No objection	
616:17-22	No objection	
616:24-617:18	No objection	
617:20-618:14	No objection	
618:16-619:2	No objection	
619:4-14	No objection	
619:16-622:10	No objection	
622:12-623:24	No objection	
624:1-16	No objection	

1	Defendants' Counter- Designations	2	Plaintiff's Objections	3	Court's Ruling
4	624:18-625:20	5	No objection	6	
7	625:23-626:13	8	No objection	9	
10	626:15-627:6	11	Irrelevant, unfairly prejudicial (403)	12	<i>Sustained</i>
13	627:8-628:23	14	No objection	15	
16	628:25-630:13	17	No objection	18	
19	633:13-634:10	20	No objection	21	
22	634:12-635:13	23	No objection	24	
25	635:15-24	26	No objection	27	
28	636:3-11	29	No objection	30	
31	636:13-637:14	32	No objection	33	
34	637:20	35	Objection, no question pending	36	<i>Overruled</i>
37	637:21-638:6	38	No objection	39	
40	638:8-639:13	41	Irrelevant, unfairly prejudicial (403), hearsay	42	<i>Sustained</i>
43	639:16-640:2	44	Irrelevant, unfairly prejudicial (403), hearsay	45	<i>Sustained</i>
46	640:5-15	47	Irrelevant, unfairly prejudicial (403), hearsay	48	<i>Sustained</i>

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28
Defendants' Counter-Designations	Plaintiff's Objections	Court's Ruling
640:17	Irrelevant, unfairly prejudicial (403), hearsay	Sustained
640:19-641:5	Irrelevant, unfairly prejudicial, hearsay, lack of foundation	Sustained
641:7-642:9	Irrelevant, unfairly prejudicial (403), hearsay, lack of foundation	Sustained
642:17-23	No objection	
642:25-643:5	No objection	
643:9-16	No objection	
643:18-25	Irrelevant, unfairly prejudicial (403), hearsay	Sustained
644:6-645:10	Irrelevant, unfairly prejudicial (403), hearsay	Sustained
645:12-18	Irrelevant, unfairly prejudicial (403), hearsay	Sustained
646:3-11	Irrelevant, unfairly prejudicial (403), hearsay	Sustained
646:19-647:18	Irrelevant, unfairly prejudicial (403), hearsay	Sustained
647:24-648:8	No objection	
718:2-719:8	Irrelevant, unfairly prejudicial (403), design evidence	Overruled

1 2 3 4 5 6 7 8 9 10 11 12	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 Defendants' Counter-Designations	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 Plaintiff's Objections	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 Court's Ruling
719:12-14	Irrelevant, unfairly prejudicial (403), design evidence			<i>Overruled</i>
719:16	Irrelevant, unfairly prejudicial (403), design evidence			<i>Overruled</i>
719:20-720:17	Irrelevant, unfairly prejudicial (403), design evidence			<i>Overruled</i>
720:25-721:25	Irrelevant, unfairly prejudicial (403), design evidence			<i>Overruled</i>

IV. Christopher John Cook (August 17, 2011 Transcript) (Volume 4)

A. Defendants' Objections to Plaintiff's Designations (Volume 4)

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 Plaintiff's Designations (1/6/16)	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 Defendants' Objections	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 Court's Ruling
737:14-739:14	Irrelevant; Lack of Foundation; Unfair Prejudice; Argumentative; Vague; Williams/State Farm (Nexus); Express Preemption (Post-July 1, 1969); First Amendment (Advertising); Cumulative; Nontestimony material; Mischaracterizes prior testimony; Cumulative		<i>Sustained</i>
757:7-19	Irrelevant; Lack of Foundation; Unfair Prejudice; Asked and Answered; Non-testimony material; Argumentative; Cumulative; Meaning or Intent of Company Documents		<i>Sustained</i>
757:21	Irrelevant; Unfair Prejudice; Argumentative; Cumulative; Post-1987		<i>Sustained</i>

	<i>Plaintiff's Designations (1/6/16)</i>	<i>Defendants' Objections</i>	<i>Court's Ruling</i>
1	808:7-809:16	Irrelevant; Unfair Prejudice; Inflame; Speculation; Non-testimony material; Design Defect No Longer At Issue In Case; Meaning or Intent of Company Documents	<i>Sustained</i>
2	809:18-810:3	Irrelevant; Unfair Prejudice; Non-testimony material; Meaning or Intent of Company Documents; Mischaracterizes testimony	<i>Sustained</i>
3	810:5-15	Irrelevant; Unfair Prejudice; Non-testimony material; Meaning or Intent of Company Documents; Post-1987	<i>Sustained</i>
4	810:17-811:4	Irrelevant; Unfair Prejudice; Argumentative; Meaning or Intent of Company Documents; Post-1987	<i>Sustained</i>
5	811:6-8	Irrelevant; Unfair Prejudice; Argumentative; Misleading; Post-1987	<i>Sustained</i>
6	927:21-928:4	Irrelevant; Lack of Foundation; Unfair Prejudice; Williams/State Farm (Nexus); Express Preemption (Post-July 1, 1969); First Amendment (Advertising); Cumulative; Document speaks for itself	<i>Sustained</i>
7	929:5-9	Irrelevant; Lack of Foundation; Unfair Prejudice; Williams/State Farm (Nexus); Express Preemption (Post-July 1, 1969); First Amendment (Advertising); Cumulative	<i>Sustained</i>
8	937:4-23	Irrelevant; Unfair Prejudice; Lack of Foundation; Speculative; Argumentative; Cumulative; Williams/State Farm (Lawful conduct); Post-1987; Express Preemption (Post-July 1, 1969); Document speaks for itself; Meaning and intent of company document	<i>Sustained</i>
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	<i>Plaintiff's Designations (1/6/16)</i>	<i>Defendants' Objections</i>	<i>Court's Ruling</i>
1	937:25-938:10	Irrelevant; Unfair Prejudice; Lack of Foundation; Express Preemption (Post-July 1, 1969); Meaning and intent of company document; First Amendment (Advertising); Williams/State Farm (Nexus)	<i>Sustained</i>
2	938:12-16	Irrelevant; Unfair Prejudice; Argumentative; Meaning and intent of company document; Express Preemption (Post-July 1, 1969); First Amendment (Advertising); Williams/State Farm (Nexus)	<i>Sustained</i>
3	938:18-939:1	Irrelevant; Unfair Prejudice; Lack of Foundation; Argumentative; Express Preemption (Post-July 1, 1969); Meaning and intent of company document; First Amendment (Advertising); Williams/State Farm (Nexus)	<i>Sustained</i>
4	939:3-6	Irrelevant; Unfair Prejudice; Argumentative; Express Preemption (Post-July 1, 1969); First Amendment (Advertising); Williams/State Farm (Nexus)	<i>Sustained</i>
5	939:8-18	Irrelevant; Unfair Prejudice; Asked and Answered; Argumentative; Express Preemption (Post-July 1, 1969); First Amendment (Advertising); Williams/State Farm (Nexus)	<i>Sustained</i>
6	939:20-940:2; 940:4-8	Irrelevant; Unfair Prejudice; Argumentative; Express Preemption (Post-July 1, 1969); First Amendment (Advertising); Williams/State Farm (Nexus)	<i>Sustained</i>
7	940:10-18	Irrelevant; Unfair Prejudice; Argumentative; Express Preemption (Post-July 1, 1969); First Amendment (Advertising); Lack of Foundation; Williams/State Farm (Nexus)	<i>Sustained</i>
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	<i>Plaintiff's Designations (1/6/16)</i>	<i>Defendants' Objections</i>	<i>Court's Ruling</i>
1	940:20-941:3; 941:5-17; 941:19-	Irrelevant; Unfair Prejudice; Argumentative; Express Preemption (Post-July 1, 1969); First Amendment (Advertising); Lack of Foundation; Williams/State Farm (Nexus); Meaning or Intent of Company Documents	<i>Sustained</i>
2	942:1		
3	942:3-10	Irrelevant; Unfair Prejudice; Argumentative; Inflame; Lack of Foundation; Express Preemption (Post-July 1, 1969); Meaning or Intent of Company Documents	<i>Sustained</i>
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5	942:12-19; 942:21-23	Irrelevant; Unfair Prejudice; Argumentative; Express Preemption (Post-July 1, 1969); First Amendment (Advertising); Lack of Foundation; Williams/State Farm (Nexus)	<i>Sustained</i>
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B. Defendants' Counter-Designations and Plaintiff's Objections (Volume 4)

NONE

IT IS SO ORDERED.

Dated: January 20, 2016.


 PHYLLIS J. HAMILTON
 United States District Judge